

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JIMMY TO
Plaintiff,

V.

UNITED STATES OF AMERICA
Defendant.

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CIVIL ACTION NO. _____

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Jimmy To, hereinafter called Plaintiff, by and through undersigned counsel, and files his Original Complaint complaining of the United States of America, hereinafter called Defendant, and for cause of action show unto the Court as follows:

**I.
PARTIES**

1. Plaintiff, Jimmy To, is an individual residing in Grand Prairie, Tarrant County, Texas and may be served through undersigned counsel.

2. Defendant, United States of America, may be served pursuant to the Federal Rules of Civil Procedure by serving a copy of the summons and complaint on The Honorable Chad Meachum, Acting United States Attorney, 1100 Commerce St., 3rd Floor, Dallas, TX 75242-1699 and be sending a copy of the summons and complaint by certified mail to The Honorable Merrick Garland, U.S. Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C. 20520-0001.

II.
JURISDICTION AND VENUE

3. Jurisdiction is pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671, et seq and under 42 U.S.C. §1331 because the case poses a federal question. Venue is proper in this court because Plaintiff resides within the boundaries of the Dallas Division.

III.
EXHAUSTION OF ADMINISTRATIVE REMEDIES

4. Plaintiff filed a Claim for Damage, Injury or Death, Standard Form 95, with the United States Postal Service. The form was complete and contained the required information pursuant to the Federal Tort Claims Act.

5. The incident made the basis of this claim occurred on September 4, 2020. Thereafter, Plaintiff timely filed his administrative claim as it was filed within two years from the date of the incident. Six months have passed since Plaintiff filed their administrative claim. The Agency has not taken final agency action.

6. Since more than six months has elapsed since Plaintiff filed his administrative claim and the Agency has failed to take final action, Plaintiff has sufficiently exhausted the administrative process and Plaintiff timely filed this civil action.

IV.
FACTS

7. On September 4, 2020 at around 4:00 pm Plaintiff was driving his 2019 Toyota Tacoma traveling southbound on South Center Street and was approaching and proceeding to drive through the Stephens Street intersection in Arlington, Texas. Meanwhile, a United States Postal Service Delivery Truck being operated by Sharne Ruth in the course and scope of his employment as a mail carrier with the United States Postal Service was traveling from the opposite direction on South Center Street and attempted to make a left turn onto westbound

Stephens Street. Mr. Ruth failed to yield the right-of-way to Plaintiff while attempting to make a left turn onto westbound Stephens Street and struck Plaintiff's vehicle. The accident caused severe injuries to Plaintiff and totaled his 2019 Toyota Tacoma with over \$20,927.88 in property damages. Due to his pain and injuries, Plaintiff was taken to Medical City of Arlington Emergency Care Center by Ambulance.

**V.
FEDERAL TORT CLAIMS ACT**

8. Plaintiff incorporates by reference the allegations contained in paragraphs 1 – 7.

9. As alleged above in detail, Mr. Ruth was acting within the course and scope of his employment with the United States Postal Service and was negligent or grossly negligent in the operation of the postal delivery vehicle. The United States of America is responsible for the damages suffered by Plaintiff pursuant to the Federal Tort Claims Act.

10. As a result of the above alleged acts, Plaintiff has suffered damages, both past and future damages in the form of reasonable and necessary medical expenses, loss of wages and benefits and wage-earning capacity, physical pain and suffering, mental anguish and emotional pain and suffering, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium and other nonpecuniary losses.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final hearing hereof, that Plaintiff has and recover judgment, against Defendant, United States of America, for the full amount of damages allowed by law, post judgment interest allowed by law, costs of court and all other relief, both general and special, at law and in equity, to which Plaintiff may justly be entitled.

Respectfully submitted,

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By: /s/ Steve Le
Steve Le
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Attorney for Plaintiff

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY